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June 11, 2001

**BY HAND DELIVERY AND E-MAIL**

Mary Cottrell, Secretary  
Department of Telecommunications and Energy  
One South Station, 2<sup>nd</sup> Floor  
Boston, MA 02110

Re: D.T.E. 01-34

Dear Ms. Cottrell:

I write this letter on behalf of AT&T Communications of New England, Inc. ("AT&T") to bring to the attention of the Department of Telecommunications and Energy ("Department") recent actions by the New York State Public Service Commission ("NYPSC") relating to Verizon New York's performance in provisioning Special Services. I have enclosed a transcript of the May 23, 2001, public meeting of the NYPSC and a copy of a letter from NYPSC Chairperson Maureen Helmer to Chairman Michael Powell at the Federal Communications Commission ("FCC").

At the May 23, 2001, public meeting of the NYPSC, the staff presented recommendations based on their investigation of Verizon New York's performance in provisioning Special Services. The NYPSC accepted the staff's recommendations and accordingly took the following actions:

1. made findings, based on the record, that

Verizon's provisioning performance for Special Services is significantly below  
Commission targets;

that Verizon treats other carriers less favorably than its own end users; and

that Verizon remains the dominant provider of facilities for Special Services.

modified Verizon's filed tariff revisions to its rebate plan to apply credits for missed installation

commitments to carriers as well as retail customers and to construe any change by Verizon in a confirmed due date as a missed commitment date.

adopted three new metrics with which Verizon must comply relating to wholesale ordering and provisioning of Special Services.

Indeed, statements made by some of the Commissioners reflect a level of concern that goes beyond mere acceptance of the staff's recommendations. Commissioner Bennett specifically points to the "difference in delays for problems with equipment, where it was 74 percent [on-time] for non-Verizon and 94 percent [on-time] for Verizon." Chairperson Helmer states that "[e]ven taking Verizon at their word, then essentially the argument is that the service is bad for everyone, so either way we don't have a good situation." As a result of the evidence presented, and sensitive to jurisdictional considerations, Chairperson Helmer announced that she is requesting that the FCC assist the NYPSC in its efforts to improve Verizon's Special Services performance. Chairperson Helmer stated that the NYPSC is willing to establish and enforce service standards on all Special Services if the FCC delegates such responsibility to the NYPSC.

In the New York proceeding on Special Services, the NYPSC recognized that examination of Verizon's Special Services performance under both the intrastate and interstate tariffs is necessary to determine whether Verizon provides adequate Special Services. The Department should reach the same conclusion in Massachusetts. As the Department has seen in the Verizon Massachusetts Report on IntraLATA Special Access Services filed by Verizon on May 24, 2001, and in Verizon's discovery responses, Verizon's intrastate transactions in Massachusetts are so few that it is difficult, as a statistical matter, to draw conclusions as to Verizon's performance in the provisioning of Special Services.

<sup>1</sup> Because the same Verizon workgroups provision the same facilities under the intrastate *and* interstate tariffs, an investigation of Verizon's methods for provisioning under the federal tariff necessarily provides information regarding the methods it uses to provision under the state tariff.

Like the NYPSC, the Department does not need FCC authorization to *investigate* Verizon's methods and performance in connection with Special Services provisioning under the federal tariff.

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<sup>1</sup> Over the period of April 1, 2000 through March 31, 2001, only 0.6 percent of the special access orders were provisioned under the intraLATA tariff, while 99.4 percent of the special access orders were provisioned under the interLATA tariff. *See* Verizon Response to D.T.E 2-1 (April 30, 2001).

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<sup>2</sup> If the Department is concerned that it may not have jurisdiction to impose penalties for poor interstate performance (an unwarranted concern, in AT&T's view), the Department, like the NYPSC, should ask the FCC to delegate to it such authority.

Very truly yours,

Jay E. Gruber

Enclosures

cc: Service List (attached)

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<sup>2</sup> Indeed, a Department investigation into Verizon's Special Services provisioning is also likely to shed light on Verizon's claim in its Alternative Regulation proceeding, D.T.E. 01-31, that the business services market is sufficiently competitive to permit Verizon virtually unfettered pricing flexibility. Since competition disciplines performance as well as pricing, Verizon's poor performance in Special Services provisioning would indicate a lack of competition in the provision of facilities underlying the business services market.